



DEPARTMENT OF THE NAVY

OFFICE OF NAVAL RESEARCH
875 NORTH RANDOLPH STREET
SUITE 1425
ARLINGTON, VA 22203-1995

IN REPLY REFER TO:

5720
Ser BD042/044
ONR FOIA 16-038
March 25, 2016

Mr. Daniel Ernsberger
Behrend and Ernsberger, PC
12th Floor, Park Building
355 Fifth Avenue
Pittsburg, PA 15222

Dear Mr. Ernsberger:

This is the final response to your Freedom of Information Act (FOIA) request received by the Office of Naval Research (ONR) on February 12, 2016 and given the number 16-038 in our system. You requested 1) a copy of each patent infringement claim against ONR for the past 10 years and 2) the internal guidelines for processing patent infringement claims by ONR. For your reference, I have attached a copy of your request.

(1) In response to your request for every patent infringement claim against ONR for the past 10 years, we are providing you with a case file summary chart of all patent infringement claims against the Navy. Since ONR handles all infringement claims against the Navy, we are broadly interpreting your request to include all patent infringement claims against the Navy. In your email of March 17, 2016, you stated that you are willing to accept a summary chart of ONR patent infringement claims as fulfillment of item one of your FOIA request. Since you are accepting this summary chart, we do not consider this to be a denial of item one of your FOIA request. A copy of your email is attached for your review.

(2) In response to your request for the "internal guidelines" for processing of patent infringement claims by ONR, we are providing you with a copy of subpart 227.70 of the Department of Defense Federal Acquisition Regulation Supplement entitled, Infringement Claims, Licenses, and Assignments. ONR uses subpart 227.70 as well as guidelines written in-house when processing claims. Although subpart 227.70 is a public document, the guidelines that ONR attorneys have produced are attorney work product and therefore are being withheld under 5 U.S.C. § 552 (b) (5), also known as Exemption 5 of the FOIA. Per our review standards, we are excluding these "guidelines" as attorney work product made in anticipation of litigation.

We consider you a commercial requester. As such, we may charge you for all costs associated with processing your request. However, the cost associated with processing your request was minimal since it was essentially an update of a previously submitted FOIA request. Therefore, there is no charge for this response.

Since you have received a partial denial for some requested records, you may appeal this determination to:

Office of the General Counsel
Department of the Navy
ATTN: FOIA/PA Appeals Office
1000 Navy Pentagon, Room 5A532
Washington, D.C. 20350-1000

Please include a copy of your original request, a copy of this letter, your supporting rationale on why the appeal should be granted, and any other information you would like considered in adjudicating your appeal. The appeal must be postmarked no later than sixty (60) calendar days from the date on this letter.

If you have questions about this letter, please feel free to contact Ms. April Harrid at (703) 696-4309 or ONRFOIA@navy.mil. Please reference ONR FOIA 16-038 when communicating with us about this case.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. E. Palisin', with a stylized flourish at the end.

R. E. PALISIN
Captain, U.S. Navy
Assistant Chief of Naval Research

Attachments:

As stated